

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANDRE W. WILLIAMS, SR.,

Plaintiff,

v.

CITY OF RICHARDSON, et al.,

Defendants.

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Civil Action No. **3:16-CV-2944-L**

ORDER

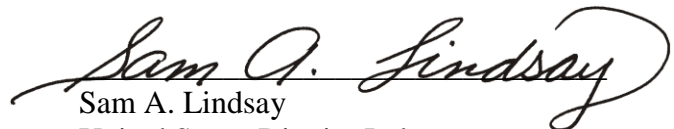
Before the court is Defendants’ Motion to Dismiss (Doc. 10), filed January 13, 2017. On September 8, 2017, United States Magistrate Judge Renee Harris Toliver entered the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (“Report”), recommending that Defendants’ Motion to Dismiss be granted in part. No objections per se were filed to the Report by Plaintiff Andre W. Williams, Sr. (“Plaintiff”); however, he did file a document titled “Plaintiff’s Response to the Findings Conclusions and Recommendations of the United States Magistrate Judge and Amended Petition.” To the extent that Plaintiff objects to the Report, the court conducted a de novo review of the Report and determines that the objections should be and are hereby **overruled**.

Having reviewed the record in this case and the Report, the court **determines** that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. The court **grants** Defendants’ Motion to Dismiss to the extent that it **dismisses with prejudice** Plaintiff’s Title VII, Americans with Disabilities Act (“ADA”), and Age Discrimination in Employment Act (“ADEA”) claims against Defendants Daryl Fourte, Jose Moreno, Cheree Bontrager, Ryan Delzell, Travis Switzer, Hunter Stephens, and Randy Jones in their individual

capacities; **dismisses with prejudice** Plaintiff's Title VII, ADA and ADEA claims that are based on adverse employment actions that occurred before September 30, 2015; **dismisses with prejudice** Plaintiff's "Threat with use of Local Law Enforcement" and "Constructive Labor Practices"; **dismisses without prejudice**; Plaintiff's HIPAA claim for lack of jurisdiction; and **dismisses without prejudice** Plaintiff's Title VII, ADA, and ADEA claims against the City, and section 1981 claims against all Defendants.

Judge Toliver recommended Plaintiff be given the opportunity to amend his complaint to replead *only* his Title VII, ADA, and ADEA claims against the City, and his section 1981 claims against all Defendants. The court agrees and will allow Plaintiff an opportunity to amend his pleadings in accordance with the standard set forth in the Report. Plaintiff shall file an amended pleading that addresses the deficiencies identified by the court, and the amended pleading must be filed by **October 30, 2017**.^{*} If Plaintiff fails to amend as herein directed, this action may be dismissed with prejudice pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted, or dismissed without prejudice pursuant to Rule Federal Rule of Civil Procedure 41(b).

It is so ordered this 30th day of September, 2017.


Sam A. Lindsay
United States District Judge

^{*} Although Plaintiff filed what appears to be an amended pleading on September 25, 2017, it is premature, as the court had not ruled on the Report. Accordingly, Plaintiff must file his amended complaint in accordance with the court's instructions.